

City of Newton, Massachusetts

Harassment Prevention Policy

January 17, 1997

Revised June 18, 2004

Revised August 10, 2006

Revised January 8, 2010

Unlawful Harassment of and by City Employees

It is the goal of the City of Newton to promote a workplace that is free of sexual, and other forms of, unlawful harassment. Sexual harassment is illegal and will not be tolerated by the City of Newton. It is a form of sex discrimination, which violates federal, state and local law. Harassment because of one's race, color, national origin, age, gender, religious creed, sexual orientation, disability (physical or mental), genetic information, or any other characteristic protected by Federal, state or local law is also illegal and will not be tolerated. It is against the law and a violation of this policy for any City employee to engage in such harassment against another employee or member of the public with whom the employee comes in contact on the job. Nor must any City employee suffer unlawful harassment from any member of the public with whom he or she is conducting City business. Further, any retaliation against an individual who has complained about unlawful harassment or who has cooperated or is cooperating with an investigation of a unlawful harassment complaint is similarly illegal and will not be tolerated. To achieve our goal of providing a workplace free of unlawful harassment, the conduct described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with if encountered by employees. Any employee found to have engaged in inappropriate conduct in violation of this policy will be subject to disciplinary action up to and including termination of employment.

Please note that while this policy sets forth our goals of promoting a workplace that is free of unlawful harassment, the policy is not designed to or intended to limit our authority to discipline or take remedial action for workplace conduct which the City of Newton deems unacceptable, regardless of whether the conduct satisfies the definition of unlawful harassment or retaliation.

Definition of Sexual Harassment

According to Massachusetts law,

“ ‘sexual harassment’ means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature, when:

(a) submission to or rejection of such advances, requests, or conduct, is made either explicitly or implicitly, a term or condition of employment or as a basis for employment decisions; or

(b) such advances, requests, or conduct, have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.”

The harassment defined in paragraph (a) is commonly known as “quid pro quo” harassment, while the harassment defined in paragraph (b) is commonly known as “hostile environment” harassment. While it is not possible for the City to list all those circumstances which could be considered to be sexual harassment, some examples of conduct which may constitute sexual harassment, whether committed by a supervisor, any other City employee, or member of the public doing business with the City, are:

- sexual assault and coerced sexual acts;
- unwelcome sexual advances, whether they involve physical touching or not;
- unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments, staring, sexual flirtations or propositions;
- unwelcome sexual slurs, sexual epithets, or sexually degrading descriptions;
- unwelcome graphic verbal comments about an individual’s body or overly personal conversation of a sexual nature;
- written or oral references to sexual conduct, or gossip regarding one's sex life;
- unwelcome sexual jokes, stories, drawings, pictures or gestures;
- unwelcome spreading of sexual rumors;
- unwelcome touching of an individual's body or clothes in a sexual way;
- discussions of an individual employee's sexual activities and/or interests (including one's own);
- inquiries into employees' sexual experiences;
- cornering or blocking normal movements in a sexual manner; and/or
- displaying sexually suggestive objects in the workplace.

Unlawful Harassment Complaint Procedures

All employees are encouraged to promptly report any behavior perceived as unlawful harassment so it can be investigated. When the City receives a complaint of unlawful harassment it will promptly investigate the allegation. The investigation will be conducted in such a way as to maintain confidentiality to the extent consistent with a fair and full investigation and practicable under the circumstances. The City’s investigation will include private interviews with the person filing the complaint, and with witnesses. The City will also interview the person alleged to have committed unlawful harassment. **Every employee, whether witness, complainant or alleged harasser, is expected to cooperate fully with every investigation.** While concerns and feelings of individuals will be handled as sensitively as possible, the City cannot eradicate unlawful harassment without the cooperation of the workforce. Therefore, failure to cooperate may be grounds for disciplinary action. Truthful participation and cooperation, will **not** be grounds for disciplinary action or retaliation.

Harassment Resource Persons

The function of the Resource Person is to receive unlawful harassment complaints and to coordinate or perform the investigation into the complaint. The Resource Person may also be available to discuss all concerns and to provide information about this harassment prevention policy and complaint process, and provide support to complainants, respondents and witnesses as appropriate.

Person Reporting Harassment

If you believe you are the target of unwanted sexual attention or behavior, or if you believe a colleague is committing possible unlawful harassment, you are encouraged to make your feelings absolutely clear to the other person(s) involved. Frequently people don't realize that they are being offensive and communication is all that is necessary to correct the situation. This communication, while encouraged, is not mandatory. You may make an unlawful harassment complaint without confronting the offender.

You are also encouraged to request any supervisor in whom you have confidence to assist you in eliminating unlawful harassment by any offender immediately and on an informal basis. Again, this step is not mandatory. You may make an unlawful harassment complaint under this policy without talking with a superior.

Complaints of unlawful harassment may be made to: any supervisor, any Department Head, any Harassment Resource Person, the Affirmative Action Officer (Leon Brathwaite, x1260), the Director of Human Resources (Dolores Hamilton, x1260), or the Mayor (Setti Warren, x1100). Complaints may be oral or in writing, and should be made as promptly as possible. You should be aware that there are time limits for filing complaints with outside agencies.

To the extent practicable under the circumstances, the City will keep complaints and the terms of their resolution confidential. However, the City cannot guarantee that your name or the circumstances of a complaint will not be revealed to other persons (including the alleged harasser) during the course of the investigation.

Written complaints should be in a confidential memo to one of the above and should include as many details as possible. Oral reports may be reduced to writing by the person receiving the report and submitted to the complainant for signed approval.

Remember that it is unlawful for anyone to retaliate against you for 1) filing a complaint of unlawful harassment, or 2) for cooperating in an investigation of a complaint of unlawful harassment.

Prompt Investigation

When the City receives a complaint, it shall perform a prompt, complete and thorough investigation into the allegations. The City **must** investigate any circumstances, whether you deem it a complaint or not, which lead it to believe that unlawful harassment may have occurred. The City may also investigate situations about which it has knowledge even if no individual has complained of being a victim of harassment.

Resolution

When the City has completed its investigation, you and the person alleged to have committed the conduct will be informed, to the extent appropriate, of the results of that investigation. If it is determined that inappropriate conduct has occurred in violation of this policy, the City will act promptly to eliminate the offending conduct, and when it is appropriate, the City will also impose disciplinary action.

It is your continuing duty to inform the City, through the channels noted above, if the behavior of which you have complained does not stop.

Discipline/Consequences

Any employee who is found to have engaged in inappropriate conduct may be subject to disciplinary action, which may range from warnings, counseling and/or reprimand up to and including dismissal. Unlawful harassment of any City employee by any member of the public will not be tolerated. All reasonable steps may be taken to protect employees from unlawful harassment by members of the public.

Any employee who retaliates against any individual who has made a complaint under this policy or retaliates against any individual who participated in an investigation of such a complaint will not be tolerated and such employee will be subject to disciplinary action, which may range from warnings, counseling and/or reprimand up to and including termination.

Retaliation by any member of the public against a City employee will not be tolerated. All reasonable steps may be taken to protect employees from retaliation by members of the public.

OF HARASSMENT

You may file complaints of sexual / unlawful harassment with the following persons:

- 1) Your supervisor
- 2) The alleged harasser's supervisor
- 3) Any Department Head
- 4) Any Harassment Resource Person listed:

Lori Burke, W/C Safety Manager Human Resources 617-796-1260

Elaine Gentile, Director Environment Affairs Public Works 617-796-1000

Bruce Proia, Fire Chief Fire Headquarters 617-796-2210

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| 5) | Dolores M. Hamilton | Director of Human Resources | 617-796-1260 |
| 6) | Mayor Setti Warren | | 617-796-1100 |

Reporting to Outside Agencies

In addition to the above, if you believe that you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using the City's internal complaint process as set forth in this policy does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC or MCAD – 300 days). You should check directly with these agencies for specific instructions for filing a complaint:

- The Massachusetts Commission Against Discrimination (“MCAD”)
One Ashburton Place
Boston, MA 02108
(617) 994-6000

Massachusetts Commission Against Discrimination
424 Dwight Street, Rm. 220
Springfield, MA 01103
(413) 739-2145
- The U.S. Equal Employment Opportunity Commission (“EEOC”)
One Congress Street
Boston MA 02114
(617) 565-3200